



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2147 FAX (603) 271-6588



**LETTER OF DEFICIENCY
WET 2002-03**

February 19, 2003

VIA FACSIMILE AND CERTIFIED MAIL

Sofran Group
Attn: Robert Rouleau, President
818 A-1 A North, Suite 203
Ponte Vedra Beach, Florida 32082-3295

RE DES Wetlands File #1998-01728 Route 302, Shaw's Supermarket, Littleton

Dear Mr. Rouleau

On May 18, 1999, the Department of Environmental Services ("DES") Wetlands Bureau issued Wetlands and Non-Site Specific Permit No. 1998-01728 ("Permit") for the dredge and fill of 4,208 square feet in the banks and bed of Dells Brook and the fill of 4,423 square feet of wetlands in five locations to provide parking and access for a commercial facility.

On June 14, 2002, DES conducted an inspection of the above-referenced property, more particularly identified as Lot 18-1 on Littleton Tax Map 225 (the "Property"). The purpose of the inspection was to determine compliance with RSA 482-A and NH Code of Admin. Rules Wt 100-700.

During the inspection the following deficiencies were documented:

1. Permit Condition #8 required the planting of a permanent vegetated buffer consisting of Eastern hemlock (*Tsuga canadensis*), balsam fir (*Abies balsamea*), and pussy willow (*Salix discolor*). The plantings in the buffer area between the rear of the project development and the Ammonoosuc River consisted only of pussy willow (*Salix discolor*), a violation of Permit Condition #8;
2. The plantings in the wetland "deep marsh" component and the plantings in the smaller detention basin across from the entry road referenced in Sheet 7 of Sheet 15 of the approved plans received by DES on September 18, 1998, did not meet the 75% survival rate requirement, a violation of Permit Condition #12;
3. The plantings in the wetland "shallow marsh" component in the above-referenced plan consist of an upland plant community, an indication that the elevation and hydrology may be too shallow to support a wetlands plant community, a violation of Permit Condition #13;
4. The June 14, 2002 inspection report requested the above-referenced remedial measures be

performed under the supervision of a qualified wetlands professional and the remedial work be completed on or before November 1, 2002. To date, DES has not received documentation that a wetlands professional was retained and the requested work performed, a violation of Permit Condition #13 and Permit Condition #14;

5. Further file review indicates that DES has no record of follow-up measures performed or monitoring reports documenting follow-up measures performed in the mitigation areas, a violation of Permit Condition #16; and

6. Common reed (*Phragmites australis*) was present in the "deep marsh" component of the larger basin as referenced in the above-referenced plans, a violation of Permit Condition # 17.

In response, you are requested to take the following actions:

1. **By March 14, 2003**, submit to DES an initial monitoring report, prepared by a qualified wetlands consultant, summarizing the corrective actions taken to address the above referenced deficiencies. The initial inspection report should include:

- a. A written summary of corrective action taken and photographs of the remediation work performed since the June 14, 2002 site inspection; and
- b. Copies of loam and plantings receipts; and
- c. An as-built drawing depicting the elevation and showing the number and type of plant species of the "shallow marsh", as referenced in the 1998 DES-approved plan.

RSA 482-A, the New Hampshire Wetlands law, was enacted to protect and preserve wetlands and surface waters from unregulated despoliation. Prior to dredging, filling, or construction in and adjacent to wetlands or surface waters, an individual is required to obtain a permit. If work is done without a permit, this is considered a violation of RSA 482-A. Failure to respond to this Letter of Deficiency in a timely and complete manner may be construed as noncompliance by the receiving party.

DES personnel may conduct another inspection at a later date to determine whether you have come into and are maintaining full compliance with the applicable statute and rules.


Issuance of this letter shall not preclude further enforcement by DES. Failure to comply with RSA 482-A will result in enforcement by DES, including but not limited to the issuance of fines, administrative orders, or referral to the New Hampshire Office of the Attorney General for imposition of appropriate penalties. If an order is issued to you, it may also be recorded with the Registry of Deeds as an encumbrance against your property.

All documents submitted in response to this Letter of Deficiency should be addressed as follows

Linda Magoon
Wetlands Bureau
Department of Environmental Services
6 Hazen Drive
PO Box 95
Concord, NH 03302-0095

Should you have any questions regarding this letter, or wish to arrange a meeting, please contact Linda Magoon (603) 271-4056 or by e-mail at lmagoon@des.state.nh.us.

Sincerely,


COPY
Mary Ann Tilton
Senior Enforcement Officer
Wetlands Bureau

CERTIFIED MAIL 7099 3400 0002 9773 5265

cc: Rene Pelletier, Manager, Land Resources Management Program
Gretchen Rule, Administrator, DES Legal Unit ✓
Littleton Conservation Commission
Littleton Board of Selectmen
David Killoy, USACOE
West Environmental, Inc.